Linn County/AFSCME #231 (Tech & Paraprof), (Maint), (Professional), (Clerical)
CEO's 683, 684
376, 377
Sector 2
2002-2003

IN THE MATTER OF THE FACT FINDING BETWEEN

LINN COUNTY,	:	
	:	
Public Employer,	:	
	:	**FACT FINDER'S**
and	:	**RECOMMENDATION**
	:	
AMERICAN FEDERATION OF STATE, COUNTY, MUNICIPAL EMPLOYEES, LOCALE #231,	:	**John L. Sandy, Esquire** **Fact Finder**
	:	
Employee Organization.	:	

APPEARANCES: Linn County
Gary Jarvis, Esquire
Trude Elliott

AFSCME Locale #231
Timothy Anthony

I. AUTHORITY

This proceeding arises pursuant to the provisions of the Iowa Public Employment Relations Act, Chapter 20, Iowa Code (herein after referred to as "Act"). Linn County (hereinafter referred to as "Employer or County"), and the AFSCME Locale #231 (hereinafter referred to as "Union or Employees") have been unable to agree upon the terms of their collective bargaining agreement for the 2003-2004 contract through negotiations . The Public Employment Relations Board (hereinafter referred to as "Board") appointed a mediator, to mediate the dispute and a mediation was conducted on January 9, 2003. This mediation was unsuccessful and the parties selected the undersigned fact finder to "make written findings of fact and recommendations for the resolution of the dispute" in accordance with the Section 21 of the Act.

A hearing was conducted in Cedar Rapids, Iowa on Thursday, January 30, 2003 and was completed the same day. The hearing commenced at 9:45 a.m. and was concluded at approximately 9:15 p.m..

The Parties submitted their final proposals which contained a plethera of items and subparts for fact finding.

Present for the hearing were: Tom Anthony, Kim Klinefelter, Jeff Drymon, Joyce Sramck, Diane Davis, Sarah Little, Don Waters, Janet Aldrich for the Union. For the County, Trude Elliott, Gary P. Jarvis, Steve Tucker, Garth Fogubahbre, Steve Gannon.

During the hearing, all parties were provided a full opportunity to present evidence and argument in support of their respective positions. The hearing was tape recorded in accordance with the regulations of the Board. Upon conclusion of the presentation of the evidence, the record was closed and the case was deemed under submission.

II. BACKGROUND

The Employer, a political subdivision is a county located in the northeast quadrant of the State of Iowa. It abutts Johnson County to the north. It includes the major metropolitan area of Cedar Rapids, Iowa.

AFSCME is the certified bargaining representative of 545 bargaining unit employees of these approximately one fifth of its composition includes part time employees.

The parties currently are in their last year of a 3 year contract which expires June 30, 2003. The contract at impasse involves a one year contractual obligation.

It's clear that the number of grievances due to the shear size of the unit have been more numerous than with other county bargaining sectors.

III. STATUTORY CRITERIA

There are no explicit criteria in the Act by which the fact finder is to judge the reasonableness of the parties' proposals when formulating recommendations. It is generally agreed, however, that the Iowa legislature intended that fact finders formulate recommendations

based upon the statutory criteria for arbitration awards contained in Section 22.9 of the Act. That Section provides: The panel of arbitrators shall consider, in addition to any other relevant factors, the following factors:

a. Past collective bargaining contracts between the parties including the bargaining that led up to such contracts.

b. Comparison of wages, hours and conditions of employment of the involved public employees doing comparable work, giving consideration to factors peculiar to the area and the classification involved.

c. The interests and welfare of the public, the ability of the public employer to finance economic adjustments, and the effect of such adjustments on the normal standard of services.

d. The power of the public employer to levy taxes and appropriate funds for the conduct of its operations.

Moreover, Section 20.17(6) of the Act provides:

No collective bargaining agreement or arbitrator's decision shall be valid and enforceable if its implementation would be inconsistent with any statutory limitation on the public employer's funds, spending budget or would substantially impair or limit the performance of any statutory duty by the public employer.

The recommendation contained in this Report were made with due regard to the above statutory criteria. However, because the County did not claim an inability to fund any of the proposal of either party involved here, ability to pay was not a factor in any of the recommendations made below.

IV. IMPASSE ITEMS

A. GRIEVANCE PROTOCOL

The Union has requested that the current contract provisions under Article 7; Grievance Committee and Stewards be amended to add the following language:

> 7.3 "All position description questionnaires [desk audits] will be discussed at the monthly Labor Management Meetings. All PDQ's will be given to the grievance committee prior to the employee coming to the meeting. No change in pay will be implemented without the mutual agreement of labor and management."

Currently, desk audits are performed by supervisors within a job classification setting. A desk audit is an examination of the tasks and duties an employee performs. This examination is for the purpose of determining whether such an employee is placed in the appropriate job classification.

The parties concur that the current practice is reviewable by an employee who is not satisfied by the result of the determination grieving the same pursuant to Article 15; Section 6 of the contract. This section provides in pertinent part:

> An employee may use the grievance procedure to challenge whether he/she is properly classified.

The Union asserts that they will be in a better position to monitor and effectively have input in this decision making process if the contract is modified to require their inclusion in the process itself. The Employer does not want to share this responsibility. Every employee is advised in advance of this audit. This change would require the Employer to also notify the Union.

The Union asserts that the current practice forces the employee to grieve the outcome.

It appears that this topic has become inflamed by an employee who was promoted rather than one who failed to receive this recognition.

Employer contends that current language provides the Union the right to discuss recommendations related to job classifications as is set forth in paragraph 7(3). Employer contends that the proposal usurps Managements' rights by determining a job classification.

There's a distinction between a right subject to appeal by the grievance procedure and a right to participate in that decision by the management. I am of the belief that participation in this process as the Union advocates with this language is troubling. First, it's a marked departure from their current role in this process. The exclusive rights of each party may be granted to the parties jointly but those are purchased and sold at the bargaining table not by fact finding and arbitration.

No comparability analysis was provided evidencing a practice by comparable communities in such an endeavor. One must also query what conflicts arise when an employee upgrade is denied. Under the current system, this employee certainly would be permitted to grieve the decision. There exists the possibility that a conflict between the denial and the Unions participation in reaching the denial is possible.

It could be labor's decision not to mutually agree to the change in pay.

It is therefore the undersigned decision to find that the proposed language articulated by the Union should not be implemented into the contract.

B. SHIFT DIFFERENTIAL

This topic involved two proposals. One, related to Lifts Department personnel. This item was removed from my consideration as the parties reached agreement on the same at fact finding.

Excluding Lift employees, the parties proposal includes the following:

Current Pay	Union	Management
a. $.10 per hour	$.50 per hour	$.25 per hour
b. $.15 per hour	$.50 per hour	$.50 per hour
c. $.10 per hour	$.50 per hour	$.25 per hour

The comparables the parties utilized in analyzing the increases included for the Union the top 8 counties in the State inclusive of Linn. The County utilized only the top six counties inclusive of Linn. These illustrations are identified in TAB 2 page 1 of the Unions' Exhibit's and on pages 4 and 5 of Employers Issue #2 of their Exhibits.

Some of the variations included law enforcement departments which are specifically excluded from the bargaining unit involved herein.

The only comparable county which would provide an increase as requested by the Union is Woodbury County. Other comparable's reflect no differential to 40 cents depending on the shift.

It is not contested that these differentials have not been increased for a number of years. Both parties concur that addressing this issue is necessary but to varying degrees.

It does not appear to the undersigned that use of the comparables provides any guidance in this matter.

For whatever reason, when the shift differential was created the Regular Shift after 6 p.m. received 50% higher shift differential. With Union's proposal this type of variation is lost.

Conversely, managements proposal would maintain a discrepancy but instead of a fifty per cent discrepancy it appears to be more of a 100% discrepancy.

No testimony or evidence as to the significance of these nuances was presented.

The undersigned finds that the Employers proposal as to increased pay for shift differential is the most reasonable and should be adopted.

C. PAY DIFFERENTIAL/PESTICIDE APPLICATION

The Union's language proposal involved here is to increase the pay differential for pesticide applicators/distributors, from $1.25 to $1.50 per hour. The current practice is that the applicator is generally accompanied by another employee who drives. Only the applicator receives this compensation. The Union's proposal would expand this pay to the driver.

The Union contends that the co-worker or driver who does not receive this differential is subject to exposure from the pesticides. They should therefore be entitled to this compensation. There was also an argument advanced that the mechanics who are required to work on the vehicles should be compensated with this differential. Last, but not least, the Union desires a four (4) hour minimum.

No comparability analysis was provided by the Union. Management conversely provided an analysis of comparables which revealed that only Polk County provides a 50 cent pay differential for pesticide application. No other counties provide any additional compensation.

Currently this benefit is not extended to mechanics. The theory of this benefit whether real or imagined is that physical contact with these pesticides may have a future impact which we don't recognize with our state of science today.

Following this premise, the Employer contends that the driver nor mechanic comes in direct physical contact with the pesticide when performing their jobs. The Employer did concede that mechanics working on pesticide application equipment would be added to the group of employees eligible for this benefit. A mechanic would not qualify for this compensation simply by performing duties related to a vehicle which has an applicator. The mechanic would be required to be specifically working on the applicator equipment bringing him or her into direct contact with the pesticide.

It would be the undersigned's finding that this policy application is consistent with current history. Furthermore, since only one county out of all the other comparable counties provides this benefit, the maximum hour application and the expansion of employees qualifying to receive this benefit is not warranted. No change is warranted in the undersigned's opinion.

D. PAY DIFFERENTIAL/OILER

Currently employees in the Secondary Road Department receive no additional compensation when they are required to apply oil to roads and other surfaces. The Union is proposing that similar to pesticide applicators; they should receive additional compensation.

The Union asserts that this perk is necessary due to the risks that the employee is exposed to in this job responsibility. The Union cites to an employee who received serious injuries as a result of his employment. Also, that it's commonplace for employees performing these responsibilities to receive minor burns.

Once again the Union does not assert that this benefit is common place amongst comparable county contracts. No comparability analysis was provided. It's not absolutely clear from Employers analysis that any county provides this benefit. The Employer does however assert that a new oil distributor has been obtained and in use which is operational from within the "air conditioned" cab of the vehicle. This, of course, reduces the risk to the employees.

It is the undersigned finding that although there are still risks attendant with employees heating and transferring this oil into the applicator, there is no support for their contention that a differential pay should be awarded. Each job responsibility necessary involves a different set of risks to the employee. The fact is, that no other contract recognizes this risk with additional compensation. Also, no reduction in pay is advanced for employees while performing less risky endeavors. Pay is not meeted out on a strict risk formula. It is for these reasons that I concur with management and current language which is silent as to additional compensation for oil application.

E. INSURANCE

The parties have various proposals related to this topic.

Seniority/Group Insurance

The Union asserts that the following language should be added to Article 10, Seniority providing "all employees schedule 36 or more hours of work week shall receive full-time benefits."

Management asserts that these benefits should not be extended and further that if it was extended for this purpose, it should be addressed in Article 25, Part-Time Employees.

Part-Time Employees

Part-Time employees regularly scheduled to work forty (40) hours or more per pay period shall be entitled to group insurance coverage and employer contribution toward the premiums involved according to provisions of Article 23, Group Insurance.

It appears that although Article 25(2) is the most specific as to how many hours an employee needs to work to be entitled "to group insurance coverage and employer contribution towards the premiums involved according to Article 23, Group Insurance."

It is clear, that a large number of the parties comparable counties provide health insurance for their part time employees. It is not clear however what percentage of the comparability groups are comprised of part time employees or how the coverage variations apply for these benefits. The Union desires that the language be changed so that all part-time employees will pay no more that 10% of the premium. Also requested is a one time open enrollment for employees who have previously not opted for coverage.

A costing of these last proposal was not estimated by either party. Although capping the contract rate for part-time employees at 10% was at a calculated cost of about $46,000.00. The

cost of providing full coverage for the employees working 36 hours or more was estimated at a little less that $4,000.00

Conversely, the County asserts that a change in health insurance coverage should be permitted. This would change the deductible from 100/200 to a 250/500 deductible schedule. Also, this plan change envisions an out of pocket maximum from 500/1000 to 750/1500. Lastly, the Employer currently reimburses the employees for their deductible amounts. This reimbursement provision would be stricken.

No subject in the past decade has spawned more arbitration than this issue.

With as large a part-time employee base as this unit embodies, part time insurance coverage is important. Likewise, open enrollment would benefit those that can't meet the qualifying conditions. Last years losses and the projected shortfall are persuasive as to modifying health insurance plans. Employer's calculations reveal that a $130,000.00 savings would occur with this change in coverage.

Bargaining table give and take not the fact finder/arbitrators pen should be the fashion to resolve these disputes.

Clearly, both parties seek financial benefit to their constituency as a result of these changes. The contemplated changes proposed will adversely affect the other party's client or constituency. These changes are quantifiable.

This Fact Finders pen will not change the nature of insurance benefits nor the current cost to the employees of this benefit. It is the finding of the undersigned that current contract language will remain unchanged.

The employees will need to perform 40 hours to qualify as they currently do for full benefits. Part time employees will pay a pro rata share of these benefits as is current practice. Employees will continue to be required to meet the qualifying criteria contained in the policy to "opt in" to said coverage. Conversely, current deductible amounts and co-pay amounts will

remain in force. Also, employees will continue to be reimbursed under the current practice to the current amounts.

Based solely on the evidence adduced, a compelling reasons for the proposed deviations was not successfully advanced by either party. This is in light of the parties longstanding history of insurance benefits and their respective cost to the employees of this unit.

F. MERGER LIGHT/HEAVY EQUIPMENT OPERATORS

The Union's proposal in this stead is to change Article 11's language with the addition of the following language:

> "The Employer shall pay Roads Department employees a premium above their current labor rate of $1.00 per hour on days when an employees are assigned to the following equipment and task: A maintainer in precision grading, backhoe, road striping and curb paint crew, excavator, bulldozer, scraper, track hoe, or crane.
>
> A minimum premium of four hours shall be paid for a work assignments of two or more hours. A minimum of eight hours premium shall be paid for work assignments of four or more hours.
>
> Assignments means all time preparing the above equipment, transporting to and from the work site, operating, and clean up of the site and equipment at the end of the project."

It appears that the Union is attempting to combine light and heavy equipment employees into one job classification, a Grade 19. This would constitute a one pay grade increase for heavy equipment operators and a three grade increase for light equipment operators.

An examination of what the Union seeks to directly and indirectly accomplish is as follows:

1) Merge two job classifications into the higher paid job classification.

2) Increase the compensation for the merged job classifications to a higher pay status.

3) Pay a premium of this merged employee base for the specific task they perform.

Ironically, it appears that the Union seeks to merge two (2) job classifications only to then separate them financially for the tasks they perform on a 4 hour incremental basis. The net affect is segregating the employees into two compensation packages by duties.

These contentions were argued as necessary because

1) both sets of employees require CDL's.

2) light equipment operators were required to perform heavy equipment operator's duties.

3) when light equipment operators perform these duties of heavy equipment operators, they are compensated in an arbitrary fashion.

It further appears that the Union has attempted to accomplish this merger by grieving the job classifications. See page 2 TAB 5; Union's Exhibit.

The County contends that procedurally the creation of job classifications is within the Employer's domain. That jobs codified under light and heavy equipment job classifications entail two different qualities of employment services. The Employer asserts that the classifications of a CDL license " falls far short of the required qualifications, including training and experience, for heavy equipment operator job classification".

It is noteworthy at the outset of this discussion that the undersigned is not nor should anything contained in this discussion be contended as res judicata as to the validity or non-validity of the Union's grievance. My inspection of this matter is solely in the context as fact finder in this matter alone.

Testimony was adduced by Steve Gannon that where a light equipment operator is requested to perform heavy equipment operators duties, they are then compensated at this higher

grade for the hours of services performed.

The undersigned finds unpersuasive that the Union's assertions that CDL licensure has made the job classifications in and of themselves merge into the same classification. This is but a single criteria in the myriad of duties and responsibilities of both jobs. Furthermore, I find it ironic that the Union desires to merge the job classifications only to redefine by compensation the various tasks that employee performs with a one dollar per hour pay differential. The end result is a substantial increase for both the light and heavy equipment workers.

Last but not least the Union failed to establish that both types of equipment operators were paid less than their comparables warranting this increase in wages. The history has clearly been to define these two job classifications with a varying rate of compensation. I am therefore finding that Union's modification of contract language is unreasonable and is unwarranted. No change in the current contract should be consumated.

G. WAGES

The Union's final proposal for a wage increase is for a 3.5% across the board increase. The Employer proposes an across the Board increase of 2.8%. These increases do not include the increased cost of insurance coverage. One percent averaged a $167,000.00 expenditure.

The comparables both parties utilized in this argument were of little value to the undersigned other than giving a general concept of pay increases. What I mean by this, is that the pay increases asserted by the parties were all involved in a multi-year contracts versus a single year contract.

Ironically, the Union's comparable analysis that they presented identified an across the Board pay increase averaging 3.33 for next year. Substantially less than what they desired the undersigned to award.

An additional component of this costing also includes pay increases resulting from upgrading job classifications. The Union's laundry list of employees sought to be upgraded are:

1. Light and Heavy Equipment Operators
2. Senior Clerk Typist
3. Facilities Workers
4. Senior Facilities Workers
5. Law Enforcement Secretary
6. Lifts Department Driver
7. Lifts Department Lead Mechanic
8. Lifts Department Mechanic
9. Lifts Department Dispatcher
10. Lifts Department Automotive Service Worker
11. Options Department Facility Supervisor
12. Account Technicians
13. Income Maintenance Employees
14. Public Health Nurse
15. Lead Project Coordinator

The parties must recognize the limitation of time and economic feasibility of having a fact finder attempt to overhaul the job classification pay graduations. Also, whether having him or her do so being in everyone's best interest

The placement of employee pay grades is not an event that should be hastily advanced. A joint committee should examine this effort on an annual basis. Also, where either parties refuses to participate, at least they can communicate as to which Departments they plan on reviewing. It's the undersigned's belief that certain job classifications will require this process to be conducted with greater frequency than others. This is of course due to market conditions within the employees specific field. An example of this type of employee would possibly be the Public Health Nurse.

Even if a fact finder expends the exhaustive study of nuances of the Salary Schedules Matrix I'm not confident that it's the fact finders role to award not only the number of but also the quality of these graduations. Without an exhaustive study and analysis of all the departments one would not be able to anticipate the ripple effect of these changes. What I mean by this, is

that by transforming a job classification with only one employee would have a negligible impact on the total employee base in the matrix. However, based on this sole employee upgrade, other employees in other departments may be ripe for upgrades as a result of this movement. In fact it may be used as the basis for why next year another set of employees should be upgraded.

It is for these reasons, that the communications and success at the negotiation table is best suited to resolving this conflict not the fact finders' pen.

With an annual review of selected departments, the plethora of upgrades would be reduced. The parties would be in a better position to place into evidence compelling rationales for their request. In fact, there was a situation where a regraduation was requested without any documentation in support thereof.

Last but not least, Linn County's compensation schedule provides longevity pay which other counties may or may not provide. Where other counties do, at what time frames and percentage do those longevity provisions take affect is important.

The Union costs its upgrades at a cost of 2.8% which the County's proposal would increase the package by.75%.

Coupling the proposed increases of the County in conjunction as to my finding as to what type of across the Board increase would amount to the total salary increase. This of course does not include costing increased insurance expense to fund appropriately that benefit.

Further, employer's proposal for shift differential pay increase discussed in sub paragraph B above is a portion of the .75% increase. It was the undersigned opinion that the increased differential pay increase proposed by the county was more reasonable when holistically reviewing each parties position.

It is therefore the undersigned finding that the Employer's proposal as to Adjustments is Salary grades is the most appropriate.

It is the undersigned's finding that a across the Board increase of 3.25% is the most appropriate. I do not find that a combination with the above finding as to job classifications that neither the Union's proposal of 3.5% nor the Employer's proposal of 2.8% is appropriate.

This would mean that the base increase that I'm proposing of 3.25% and the regrading of salaries and pay differentials results in a .75% benefit to the Union's membership. A total of 4.0% increase would be effectuated. This exceeds comparable entities pay increase for this calendar year. In fact it's over .5% or 25% higher than the Union's next comparable county pay increase. This is even more significant when one realizes that this pay increase is compared to pay increases tied to multi-year contracts. Furthermore, this increase is appropriate in light of the undersigned's decisions in subparagraph E.

H. LEAVES OF ABSENCES

a). Illness Notification:

This language change proposed by the Union would delete "indicating the nature of the illness or injury: from Article 16, Leave of Absence, 2 (b) which provides:

In order to qualify for sick leave benefits, an employee desires to take a sick leave must, as soon as is reasonably possible, notify his/her immediate supervisor *indicating the nature of the illness or injury* and the anticipated length of absence. Employees absent for three (3) days or less due to injury or illness will not be required to submit proof of such injury or illness. However, any employee abusing the sick leave benefits will be subject to the disciplinary procedures which may include severe discipline, such as discharge. Prior to approving sick leave of more than three (3) days, the employee's department head or the Board may require verification of the employee's condition through a statement from the employee's doctor certifying the employee's disabling sickness or injury or through examination of the employee by a doctor of its choosing. In the latter case, the doctor's cost will be borne by the Employer.

The Union asserts that this provision violates federal law in that it requires employees to divulge "personal medical information".

The contract provisions are somewhat unique as to their counterparts in that an employee may be absent up to three (3) days without being required to submit proof of the injury or illness.

The employer is willing to strike the proposed language but in return desires to require the employee to provide proof by verification at the option of the employer of their illness.

This County's language change would provide:

> In order to qualify for sick leave benefits, an employee desiring to take a sick leave must, as soon as is reasonably possible, notify his/her immediate supervisor indicating the anticipated length of absence. Any employee abusing the sick leave benefits will be subject to the disciplinary procedures which may include severe discipline, such as discharge. Prior to approving sick leave the employee's department head or the Board may require verification of the employee's condition through a statement from the employee's doctor certifying the employee's disabling sickness or injury or through examination of the employee by a doctor of its choosing. In the latter case, the doctor's cost will be borne by the Employer.

It appears that from comparable county's contracts Linn County current language is perhaps the most liberal in that no physicians certificate is required during a grace period of 3 days. When does the County's notification of sick leave becomes a "diagnosis" is a slippery slope. The undersigned noted this fine line at hearing.

For these reasons I would concur in both the Union and Employer's language amendments.

That is, the deletion of language which requires the employee to disclose the nature of the illness or injury and deleting the 3 day grace period. This would require the employees to submit proof from a physician when requested. This would place Linn county employees on par with

other comparable counties on this issue. It is therefore my finding that the Employers language is best suited to effectuate these modifications and should be implemented.

b). Two Day Restriction:

The Union is desirous of modifying sick leave language which limits this use to a two (2) day maximum in a work week. It is irrefuted that Linn County's accrual basis for sick leave is unparallel. As is often the case, until a situation occurs, the negative effect of this prohibition is not realized.

The Employer asserts that its plan "strikes a balance between an employees need to attend to the day to day minor illness and injuries especially with younger children, as well as significantly contributing to the care of family members with more serious or chronic health conditions *while maintaining the flow of services to the public."*

I have italicized the above language because its clear that the current language does not strike the balance asserted. It would then, only be reasonable, as a result of addressing the employees absences. However, I am unconvinced that rationing it out in two day increments is persuasive. Conversely, a total deletion of a rationing system as advocated by Union is not appropriate.

I am concerned that a two day period falls short in a large number of the short term health crisises. I would propose as my findings on this issue that an attempt at providing language which addresses this scenario while maintaining protection that isn't unduly burdensome for the employer.

To this end, I would suggest that the following language supplant Article 16 (2)c subparagraph (3):

Sick leave benefits up to a maximum of up to five (5) days in a one (1) week period during the course of one year. For the remainder of the year, the employee will be able to utilize up to two (2) work days in any remaining work weeks and will be paid by

Employer due to a serious illness or injury to a member of the employees immediate family...

I am sincere in my belief that this suggested language change should alleviate some of the harshness of a prohibition while not being overly burdensome.

c). Family Member Designation:

The Union seeks to include mother in law and father in law to the definition of immediate family for utilization of sick leave coverage. No comparable language is available because Linn County stands alone in providing this benefit. The laundry list also includes a "legal ward living in the employees household". This person does not need to meet the other designations as to consanguinity.

I am therefore finding that no inclusion of mother in law and father in law should be added to the definition of "immediate family".

d). Conversion:

The Union asserts that employees sick leave should be permitted to be converted at a 2 to 1 ratio to vacation when 480 hours of sick leave accrue.

This language would necessitate striking Article 16 (2)(h) which provides:

> "There will be no payment or other form of reimbursement for accumulated sick leave upon the termination of employment."

Three distinct actions are taking place here. First, we would be providing compensation for a benefit which currently is not portable. Second, we are designating a conversion ratio for effectuating this transfer. Third we have the qualifying accrual basis to make the conversion.

A review of the written proposal does not lend itself to whether the same is retroactive.

Also, no costing was provided.

A review of the Union's comparability group reveals that three counties have no conversion policy while 4 counties have some policy.

From those four counties, three provide a 4 to 1 conversion ratio. Black Hawk County's policy accrues 3 days per year after a "maximum" of days accrue. From those four counties that permit this policy, all require a number of hours before conversion is permitted. Three average over 600 hours of accumulation.

The County's perspective is that conversion policies do not serve to deter sick leave abuse nor do they provide an incentive to minimize sick leave use. It is not the undersigned prerogative to concur or dissent on Employers philosophy in this stead.

The comparable counties policies in this area are not persuasive to warrant a modification of current language. Certainly the historic prohibition of conversion is noteworthy. This, like a plethora of other items is a benefit bought at the bargaining table. A Fact finder should also have some modicum range of the costing of a benefit before awarding the same. It is therefore the finding of the undersigned that no modification of this benefit is warranted.

e). Three Day Waiting Period:

It appears that this subject matter involves situations where an employee is injured on the job as defined by Workers Compensation law. According to said law, the first three days of lost wages are not compensable.

The contract currently permits the employee to recapture the lost compensation by utilization of sick leave. The Union asserts that a three day compensation period should be provided by the Employer ancillary to any benefit currently in the contract.

Historically, the County has not been consistent in certain departments with current contract language.

A review of the Union's comparability group reveals that Scott County is the only county that provides this perk to a like employee unit. It is understood that the City of Cedar Rapids provides this benefit to its employees.

I am far from convinced that the Union's request is warranted due to its comparability comparison. Furthermore, an alternate resource is available for this situation. I am unconvinced that the use of sick leave places an undue hardship upon the employees of this unit.

It is therefore the finding of the undersigned that the proposed language change proposed by the Union should not be adopted.

f). Paid Holidays:

To understand this dispute, the basics tenets of compensation are fundamental. That is, overtime on non holidays is paid time and one half. Overtime on holidays is double pay.

Currently, the practice is to offer the overtime holiday and overtime non holiday opportunities to employers per contract "equally as practicable". As human nature would have it, arguments as to the fairness of this proposal have arisen due to employees cherry picking their overtime acceptance.

The parties proposed the following remedy to this conflict.

The Union proposes:

New Section 8. Most senior employee in the job classification/department will be first offered to work on a holiday, if the employee refuse to work the holiday the employer will go down the seniority list. If no employee in the job classification/department wants to work holiday then it will be offered in the department to the most senior qualified employee, and then down the seniority list. The least senior in the job classification/department will be forced to work the holiday, if all employees in the

department refuse to work the holiday.

The Employer proposes:

New Section 8. Employees assigned to a project or the most senior qualified (using bargaining unit seniority) employee in the job classification and department will be the first one offered work on the holiday. If the most senior qualified employee refuses the work on the holiday the employer will ask the next senior qualified employee on the seniority list until the employer reaches the least senior qualified employee who will be required to work the holiday. An employee assigned to a project and asked to work a holiday will be required to work such holiday.

Current language provides some flexibility to management as to offering overtime. Also, employees currently can grieve whether the distribution of overtime is equitable. Management and the Union both desire that the distribution of overtime be based on seniority.

The Employer would carve out an exception to this procedure where the overtime is to be consummated by an "employee assigned to a project". Then, the employee irrespective of his or her seniority would not only be offered said overtime but be required to work the same.

Under subparagraph 2 of Article 9(a) seniority basis is provided when a staffing vacancy exists after offering this employment. That is, the least senior employee qualified to perform the job is then required to work when no one else avails themselves of the opportunity.

Philosophically, when we discuss offering overtime the current practice attempts to address the inequity of one employee benefitting from the extra compensation overtime provides. Transforming this procedure to a strict seniority basis will only effectuate a larger disparity of income by two similarly situated employees. The counter to this is that employment longevity is compensated with overtime opportunities. Conversely, when the opportunity of this benefit is refused it falls upon the least senior employee to work.

No comparability analysis was received pertinent to this item.

The Employer asserts that it would not be efficient or economical for an employee on a project to be substituted by a less senior employee not trained on the project. I am at a loss as to what type of project would require overtime employment. Moreover, that assuming the foregoing, that the employee would refuse to work.

The parties do agree that seniority should supplant what I speculate is an alphabetical procedure. I would then propose as follows:

> The most senior employee in the job classification/ department will be first offered to work on a holiday overtime. Where that person refuses, the next senior employee will then be offered that employment until staffing needs are filled. If no employee accepts then the least senior employee in the job classification/ department will be required to work.
> In the case of an employee that is specifically assigned to a project where holiday or overtime is warranted, the Employer may offer said overtime to this employee for the sole purpose of work on the project. Where the employee rejects the privilege to work overtime then the most senior employee within the job classification/ department will be offered the overtime. Where that employee refuses to work the next senior employee will then be offered the employment until this staffing need is filled. If no employee accepts then the least senior employee in the job classification/department will be required to work.

This process differentiates between the offering and the mandatory filling of an overtime occupancy. It also provides the Employer the right to economically fill this need. It provides protection for the employee who is specifically assigned a project to be forced to work overtime where there are less senior employees in the job classification department.

The down side to this system is that the County may be forced to fill an overtime vacancy for a project with a different employee. It will be the employers decision as to whether the decrease in efficiency or economics warrants having the overtime work performed.

I submit that a strict reading of the current contract would yield the same result currently

for an employee who is assigned a project requiring overtime that is refused. It is for these reasons my findings as to the resolution require the bifurcated approach advanced above.

J. Paid Holidays/ Holiday Week and Paid Holidays

Vacations:

The Union proposed an enhanced vacation schedule as follows:

1 year	2 weeks
3 years	3 weeks
10 years	4 weeks
15 years	5 weeks
20 years	6 weeks

Currently, the schedule is :

1 year	80 hours
6 years	120 hours
11 years	160 hours
17 years	200 hours

The Employer asserts that it's vacation schedule is more than generous when compared to compatible counties. That no deviation is warranted. A review of how Linn's vacation schematic compares with the top eight counties in the State reveals as follows:

No county provides 6 weeks of vacation. Insofar as providing three weeks vacation, the average time frame is 5.28 years. The median is clearly 5. The average time frame needed to accumulate 4 weeks vacation is 12.14 years. The average time frame needed to accumulate 5 weeks vacation when it exists is 18.83 years. It is clear from this examination that although Linn lags alittle when employees are eligible to receive 3 weeks of vacation it is far ahead of the comparables for receipt of 4 and 5 weeks worth of vacation.

In fact, factoring how an average Linn's employee fares overall is:

Time	Average	Linn	Difference
2 weeks	1.42	1.0	.42
3 weeks	5.28	6	-.72
4 weeks	12.14	11	1.14
5 weeks	18.83	17	1.83
			2.67 ÷ 4 = .6675

Overall, the current contract reveals that vacation pay is on average 2/3 of a year faster than Union's comparable counties.

Historically, the contracts have utilized these anniversaries when determining vacation allowance. It is therefore my finding that Union's proposed acceleration of vacation is unwarranted and not supported by review of it's comparables. I therefore find that the current language of the contract should be maintained.

K. Vacation/ Part-Time Employees

Here, the Union seeks to have employees qualify for vacation benefits by calculating their years of service irrespective of full or part-time service.

The County asserts that its current contract language is fair and adequately compensates the units part-time employees.

The County claims that the Union's proposal is unfair in that full-time employees receive the same vacation benefits as their part-time counterparts.

The process that the pro rata determination is made is multiples the number of hours the employee would be entitled to as a full-time employee by the proportion of the employees regularly scheduled hours of work. Two examples of this calculation are contained in the contract. The problem with this application is that vacation accrual is not graduated on an annual

basis.

At hearing, the undersigned submitted the following as my recommendation to resolve this conflict.

It simplifies the calculation. The application of this procedure mirrors the current process. It calculates the number of years of service by employment. Using the same examples would result as follows:

- e.g. - 5 years at full-time and 2 years regularly scheduled for 60 hours per pay period =
  (5 + 1.5=6.5- 6.5 is over 6 years of service so the employee would receive 120 hours).
- e.g. - 10 years regularly scheduled for 60 hours per pay period and 2 years regularly scheduled for 40 hours per pay period= (7.5 years +1.0 years = 8.5 years of service so the employee would receive the 6 year increment not the 11 year and 120 hours).

It was questioned of the undersigned how this application would work for a part-time employee after 1 year.

- e.g.- 1 year regularly scheduled for 60 hours per pay period = (.75 of service so the employee would not yet have 1 year of service and receive no vacation).

Another example:

- e.g. - 10 years regularly scheduled for 40 hours per pay period = (5 years of service so the employee would qualify and receive 80 hours of vacation).

This procedure would be the undersigned's recommendation of resolving the inequities of the current system.

L. Longevity/ Article 22

This article is similar in it's complexities to calculation vacation pay contained in Article K.

Using the example under Part-Time employees yields the following:

- e.g.- 5 years at full-time and 2 years regularly scheduled 60 hours per pay period=
  1. 80/80 = 500
  2. 80/80 = 500
  3. 80/80 = 500
  4. 80/80 = 500
  5. 80/80 = 500
  6. 60/80 = 375
  7. 60/80 = 375

3250/500 = 650 average.

- e.g.- 10 years regularly scheduled for 60 hours pay period and 2 years regularly scheduled for 80 hours per pay period..
  1. 60/80 =375
  2. 60/80 =375
  3. 60/80 =375
  4. 60/80 =375
  5. 60/80 =375
  6. 60/80 =375
  7. 60/80 =375
  8. 60/80 =375
  9. 60/80 =375
  10. 60/80 =375
  11. 80/80 = 500
  12. 80/80 =500

4750/1500 = 900 average.

County contends that pro rata consistently has been met with current language. The Union is contending that current language fails to pro rata calculates longevity pay.

It is the undersigned finding that the same application of determining the basis for vacation is appropriate for longevity. It is the undersigned's finding that at least for employees exceeding 60 hours per pay period this formula should be utilized for part-time employees to accrue longevity.

M. Administrative Asstistant

The parties settled this dispute by agreement. It appears that this issue was addressed in a prior action before the Board. It involved whether an Administrative Assistant is a management or unit employee. The undersigned addressed both parties that this issue is one best decided by the Board and not the undersigned's limited role.

N. Safety Acquisitions

This item originally involved safety boots/shoes and safety glasses. The parties agreed to the Employer's offer as to safety boots/shoes.

The current contract provides no reimbursement for safety boots/shoes or prescription safety glasses. Apparently policies are in place which provide a $25.00 annual allowance for safety boots/shoes and a $50.00 bi-annual allowance for prescription safety glasses. The Employer currently provides non prescription safety glasses.

The Employer's position is that a new section be added which allocates up to a $40.00 annual reimbursement for safety footwear. Also that a $75.00 bi-annual allowance towards the purchase of prescription safety glasses.

The parties comparability analysis reveals that Polk County provides a $60.00 annual stipend for safety foot wear and no limitation on prescription safety glasses. Johnson County's secondary road contract alone provides for a $60.00 per year allocation for safety footwear and a

$50.00 per year allowance for "winter wear". The employee can exceed the $60.00 limitation on footwear up to the $110 cap ($50.00 winter wear and $60.00 shoe allowance) upon proof of the expenditure. They consequently lose the extra cash from their winter wear allowance. Insofar as prescription safety glasses, the initial cost plus repair or replacement cost is also covered. Repair or replacement payment is contingent upon damage in the performance of the employees duties. The Employer will not replace lost safety glasses.

The undersigned is unsure as to what happens when the employees prescription changes warranting new glasses. Other bargaining unit contracts of Johnson County have no footwear or prescription safety glass reimbursement.

The Union asserts that Black Hawk County has $50.00 per year shoe while no prescription safety glass reimbursement. The Employer asserts that Black Hawk County provides no allocation.

Scott County provides a $50.00 per year or $75.00 bi-annual reimbursement for safety footwear and no reimbursement for prescription safety glasses.

Woodbury County provides a more generalized approach to a "specialized clothing" with a cap of $150.00.

At Fact Finding the undersigned was appraised that the Union accepted Employers proposal as to footwear but asserts that the prescription safety glass allocation is insufficient.

We are then left with the following summation as to prescription safety glasses:

County	Provide	Allocation Limit
Polk	Yes	None
Johnson	Yes	None
Black Hawk	No	N/A
Scott	No	N/A
Woodbury	Yes	$150.00 per year

Dubuque	No	N/A

One half of the comparable counties provide this benefit. Out of these counties; Woodbury limits its exposure to a total of $150.00 per year. Johnson County places limitations as to repair or replacement.

Assuming a similar approach to Woodbury County would involve a diminution of the total expenditure since $40 annually or $80 bi-annually is estimated for footwear allowance.

No evidence was adduced as to what the range of costs are for prescription safety glasses. The undersigned is at a loss as to whether $75.00 bi-annually or a $250.00 annual appropriation is more appropriate since no evidence as to cost and or frequency of replacement is found in the record.

The undersigned finds that taking the Woodbury County approach as to cost appears to be the most reasonable when contemplating a dollar expenditure allocation. This would then amount to up to a $110 allowance per year for prescription safety glasses. This is more than the Employers fact finding proposal but less than the Union's fact finding proposal of $250 bi-annually.

Providing this benefit on an annual basis insures that where an employees prescription changes the employee has the most appropriate glasses from a vision perspective. The employee would be required to purchase the glasses and submit proof of purchase with a bona fide receipt to the Employer for reimbursement. Any funds allocated not used would be lost. This would be this Fact finder's recommendation as to this item.

O. Mechanics Tools

The Union asserts that this topic has been a continual problem for Lifts Department Mechanics. The problem is that contract language requires that all tools shall be supplied for the employees use. The tools haven't been supplied. This problem was the basis for a grievance.

The Union seeks to remedy this situation with a $250.00 tool allowance. There is no comparable county analysis but the Union asserts that this is the only fashion in which these mechanics will be compensated for use of their own tools.

By the Union's proposal the allowance would be paid to all mechanics not merely Lift Department Mechanics. It appears that this problem only exists in the Lift Department.

At fact finding the Employer agreed to rectify this problem. I am not disposed at this time to remedy the Employer's failure in this area with a tool stipend designated to all mechanics. If this practice continues I would be inclined to find it difficult to not remedy this situation with an annual stipend to Lift Mechanics. I'm also not convinced that a $250.00 allocation is appropriate. A greater or lesser allocation may be warranted to remedy this discrepancy.

My findings at this time is that a remedy of this nature is unwarranted for the 2003-2004 contract year.

I would strongly advise that the County take any and all steps and expenditures necessary so that this issue is not before a fact finder/arbitrator in future contract endeavors. Therefore no stipend would be warranted for this Fact finding.

P. Miscellaneous/Training Committee

Currently, a Training and Educational Assistance Program Policy exists in Linn County. This policy is fairly exhaustive in it's scope and nature. It is funded to include college course work for education in the employees current job and or a higher position to which the employee could reasonably expect to be promoted.

The Employer seeks to amend Article 27 and add a paragraph 10 the following language:

Training Language:

10) The parties agree to establish an in-service training committee of three (3) management and three (3) union members. The Board shall select the three (3) management representatives and the Local 231 President shall designate the three (3) union members.

The committee may review all county training that effects bargaining unit employees, including types of training and frequency offered.

The Employer and Union agree that all county training programs will be:

a. Offered to interested employees by seniority.

b. Administered consistently and fairly.

c. Paid for by Employer.

d. Mandatory training will be done during normal work hours. All required certifications and continuing education units will be paid by the Employer.

The Union provides the following as it's fact finding proposal:

Section 10. The Union shall appoint three members of the Employee Development Committee.

Permission to attend conferences and seminars directly related to an employee's work and for the purpose of obtaining necessary continuing education requirements or vocational certificates may be authorized by an elected official or department head provided the work schedule permits and funding is available.

The differences between these two proposals are:

(1) Training offered by seniority.

(2) Paid by Employer.

By contrast, the Management's limitations on this process is to reserve the discretion to approve or deny a specific seminar due to subject matter, scheduling and financial considerations.

The purpose of this reservation advanced by the County is to prevent an employee from attending seminars which are not related either to the employees current job or a prospective job which the employee could reasonably be expected to be promoted.

For instance, a Lifts Department Driver requesting to attend a continuing medical education seminar in St. Martin, West Indies would be a situation where the employer could deny the request. It would be outside the employees field of employment and be cost prohibitive.

Also, if the entire Lifts Department Drivers Staff decided they wanted to attend this seminar at one time it would cause a scheduling problem for the Employer.

Currently, only two employees of the unit have volunteered to serve on the Training and Educational Assistance Program Committee. The County's proposal would expand the number of committee members to include three persons selected by the Union.

It is the undersigned's finding that this program having been in existence for 8 years has not been participated in by the Union to this date. That before scraping the committee the inclusion of 3 people selected by the Union may resolve any conflicts which currently exist. Also, it is necessary to have some limitations on location, type and timing of seminars when the Employer is required to pay the expense while continuing to supply a stream of services to it's constituency.

I therefore find that the County's language is reasonable and should be adopted.

Q(i).Employee Performance Appraisals

This topic involves the codification of Performance Appraisals for the different member of this bargaining unit into the contract. This subject has been the subject of two grievances.

Conversely, the Union desires to barr the use of performance evaluations. The Union seeks language which bans the use of these procedures completely.

The undersigned believes that current practice is that some departments use of these

evaluations which has spawn the grievance procedures previously mentioned.

The Union asserts that these evaluations should be banned because:

(1) The number of different forms used to evaluate the unit's employees.

(2) Who performs these evaluations on behalf of Management

(3) That the Employer has not put forward a fair, impartial and uniform evaluation process for all employees.

No comparability analysis was provided by the Union to support its contentions.

Conversely, the County asserts that the forms utilized have never been the basis of any grievance by the Union.

The County asserts that it provided the Union with a proposed form for those departments currently without one. That the Union has refused to quantify its objections to this form.

The Employer's comparability analysis provides that a majority of the comparable counties contracts provide performance evaluations. Of the minority number of counties, performance evaluations are being used and are included in some fashion.

It is this fact finders opinion that both Employers and the Unions written proposal on this matter should be denied.

As has oft been quoted the undersigned believes that this is a topic for joint resolution. The undersigned is not convinced that complete uniformity in appraisals is necessary nor is appropriate. The criteria for evaluating an assistant county attorney performance in fact may be different than evaluating a Lifts Department Driver.

I am of the belief that portions of this evaluation can however be uniform for all employees.

I am also of the belief that evaluations may need to be tailored by length of employment and job classification within a specific department. Certainly a first year attorney in the County

Attorney's office will not possess the expertise that a 20 year seasoned major felony prosecutor possesses.

The policy should state that the department head or supervisor within a department should conduct the evaluation on an annual basis. It was noteworthy, in one contract that this review coincides with the employees birth date month. That way these evaluations would be spread over the course of the year.

The employee would have the right to grieve the evaluation's findings.

I am unconvinced that the arbitrator should be creating this form for a contract that contains the multiple various departments that Linn County possesses.

It is my belief that an employee of Human Resource Department along with each Department head and a Union employee within that department should meet in an effort to distinguish the nuances of performance evaluations in each department.

If a year from now, the fact finder/arbitrator is met with the Union's position that any evaluation form is untenable I am concerned that the result of the undersigned's findings may be different. I therefore find that current language and practice should continue.

Q(ii). Performance Appraisals/ Article II Promotion and Transfer

This issue is the application of the performance application to promotions and transfers.

Current language provides a great deal of specificity when new employment opportunities exist. The procedure is embodied in Article II; Promotions and Transfers.

Conversely, the Union's position is against performance appraisals. No additional arguments were advanced for why the Union resist the use of performance evaluations in Promotions and Transfers language.

No comparable counties contract language is explored by either the County or Union.

If I understand the contentions of both parties, performance evaluations have been conducted over the course of the current contract. Their use has not been included in the Promotions and Transfer section of the contract.

Without evidence from comparable contracts I am unable to determine whether this language modification is appropriate. There is no evidence that compels the undersigned to find that the management's inclusion of this tool as necessary. It is therefore the finding of the undersigned that current language should be unchanged.

R. Article II/ Bidding to Specific Facilities

The contract currently prohibits employees from bidding the same job classification within their department. The prohibition's exception is for employees in the secondary road department. These employees may bid within the same department but to change districts which geographically delineate the County.

By contrast, all of Facilities Department structures are located within the confines of the City of Cedar Rapids.

The Union seeks to change this language so that employees can bid within their department but for specific buildings or structures.

The Employer asserts that secondary road department contract language permits this exception to reduce commute time for the employees. The commute time for non secondary employees is a non issue since all of the facilities are within a relatively close proximity. The County asserts that the current process " affords a degree of flexibility in assigning employers to needed areas of work".

The Union contends that the contract permits secondary road department employees to transfer. Also, the specific facility dictates the amount of holiday and overtime compensation available to the employees.

The County claims that two of it's secure facilities require a more exhaustive background check for personnel assigned employment in those facilities.

The Union has provided a comparability analysis which supports this language modification.

Conversely, the County maintains that this limitation has served both parties for over 20 years without problem.

I am of the belief and find that the Union's desire to change the current methodology of transfers for Facilities Department employees is unpersuasive.

It was not asserted that any abuse of this discretion has befallen the members of the unit. Further, commute time for these employees is not affected as with the Secondary Road Department. Also, the County has an overriding interest in an employees background and placement at the two secure facilities. Last, but not least , is the Union's assertions as to overtime compensation is invalid considering the undersigned's language modifications proposed in Article 9 as it relates to these benefits.

In the future, overtime opportunities unless an employee is assigned to a specific project will be doled out according to seniority. It is therefore the undersigned's opinion that current language as to this Article should remain.

S. Funeral Leave

Article 16 (9) of the current contract provides a laundry list of family members that does not include aunt, uncle, niece or nephew.

The Union's comparability analysis fails to provide support for the inclusion of these family members in bereavement leave.

The County asserts that there is other time off vehicles that an employee can use due to the funeral of aunt, uncle, niece or nephew.

I am of the opinion and find that no compelling reason exists for inclusion of aunt, uncle, niece or nephew into the laundry list for bereavement leave.

It is therefore the undersigned's finding that no inclusion of aunt, uncle, niece or nephew as advanced by the Union is warranted.

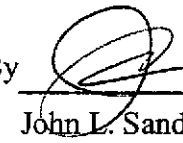
CONCLUSION

The following is a synopsis of this author's findings in the order these items were addressed.

1. Article 7- No change
2. Article 8 (7) - The County's Proposal as to Increases
3. Article 21 (e) - No change
4. Article 21 - Hazmat Pay for Oiler- No change
5. Article 23 - Insurance - No change
6. Article 11- No change
7. Article 21- Fact finder's decision
8. Article 16 (2) B - The County's Proposal
9. Article 16 (2) C (2) - Fact finder's decision
10. Article 16 (2) (C) - No change
11. Article 16 (2) (H) - No change
12. Article 16 (5) - No change
13. Article 17 (8) - Fact finder's decision
14. Article 18 (1) - No change
15. Article 18 & 25 - Fact finder's decision
16. Article 22 - Fact finder's decision
17. Article 21(Adm. Asst) - No change
18. Article 24 - Fact finder's decision

19. Article 27 - No change (tool stipend)
20. Article 27 (10) - The County's Proposal
21. Article 28 - No change
22. Article 11 (1) - No change
23. Article 11 (1) - No change
24. Article 16 (9) -No change

Respectfully Submitted

By 

John L. Sandy
304 18th St.
P.O. Box 445
Spirit Lake, IA 51360
712-336-5588

CERTIFICATE OF SERVICE

I certify that on the 14th day of February, 2003, I served the foregoing Award on Fact finding upon each of the parties to this matter by (_____ personally delivering) (X mailing) a copy to them at their respective addresses as shown below:

Trudy Elliot	Tom Anthony
930 First St. SW	1425 8th Avenue SE
Cedar Rapids, IA 52404	Dyersville, IA 52040

I further certify that on the 14th day of February, 2003, I will submit this Award for filing by (_____ personally delivering) (X mailing) it to the Iowa Public Employment Relations Board, 514 East Locust, Suite 202, Des Moines, IA 50309.

John L. Sandy, Fact Finder

Linn County /AFSCME #231 (Tech.& Paraprof), (Maint.), (Professional), (Clerical)

IN THE MATTER OF THE FACT FINDING BETWEEN CEOs 683, 684, 376, 377 2002-2003 segm 2

LINN COUNTY,	:	
	:	
Public Employer,	:	
	:	**FACT FINDER'S**
and	:	**RECOMMENDATION**
	:	
AMERICAN FEDERATION OF STATE, COUNTY, MUNICIPAL EMPLOYEES, LOCALE #231,	:	**John L. Sandy, Esquire** **Fact Finder**
	:	
Employee Organization.	:	

The following is a discussion pertinent to an impasse item which was not included in the original fact finding decision.

T. Compensatory Time/ Overtime

Currently, Article 9, Overtime, Call-In and Reporting Pay provides in pertinent part:

> Time and one-half an employee's regular straight time hourly rate will be paid for all time worked in excess of forty (40) hours in any one (1) work week. *In the alternative, an employee may elect, for each period in which overtime is worked, to take the total equivalent time off with pay for such overtime under the following conditions:*
>
> a. The employee must provide his/her department head with written notice, on a form to be provided by the department head, that he/she has made such election. Such notice must be delivered to the department head on or before Monday following the work week in which the overtime was worked or on the next regularly scheduled work day in the event Monday is a holiday.
>
> b. Such time off is accumulated during the contract year and should be taken prior to June 30. In the event the time off is not taken prior to June 30, the unused overtime shall be paid, at the employee's rate of pay when earned, to the employee in the last pay period preceding the end of the contract year. The employee may also elect to be paid at any time during the contract year for compensatory time earned.

c. The time off shall be taken at such time or times as may be mutually agreed by the employee and the department head.

d. Equivalent time off means on an overtime basis, i.e., one (1) hour of overtime equals one and one-half (1 ½) hours off.

The Employer seeks to amend this language by deleting the italicized language and in lieu thereof insert the following language:

" In the alternative, but with the exception of employees working in a 24 hour operation, an employee may elect for each period in which overtime is worked, to take the total equivalent time off with pay for such overtime under the following conditions."

The nuance of this amendment is to eliminate compensatory time for 24 hour facility operations at the Linn County Correctional Center. This center performs the functions of a county jail.

The argument for this modification is that the large amount of comp time this department accrues.

The Union's response to this language change is that the County simply needs to hire additional personnel.

No comparability analysis was provided by either party.

It appears to the undersigned that operation of a correctional facility does require the Employer to follow both state and federal mandates.

The County's proposed language amendment does not restrict itself to only correctional facility operations. A "24 hour operation" may entail employees in other departments.

This cost savings to the County would also need to be examined in light of the undersigned's findings in items E and G.

Likewise, considering the fact-finding modifications proposed as they apply to holiday overtime compensation.

It is therefore the undersigned's recommendation that the following language should be implemented:

" In the alternative, but with the exception of employees working in a 24 hour correctional facility operation, an employee may elect for each period in which overtime is worked, to take the total equivalent time off with pay for such overtime under the following conditions."

This language provides the flexibility to the Employer to fill correctional facility needs without imposing this practice on other employees.

Correctional facility employees have the right to refuse overtime opportunities according to the contract.

Respectfully Submitted

By _____

John L. Sandy
304 18th St.
P.O. Box 445
Spirit Lake, IA 51360
712-336-5588

CERTIFICATE OF SERVICE

I certify that on the 21 day of February, 2003, I served the foregoing Award on Fact finding upon each of the parties to this matter by (_____ personally delivering) (X mailing) a copy to them at their respective addresses as shown below:

Trudy Elliot	Tom Anthony
930 First St. SW	1425 8th Avenue SE
Cedar Rapids, IA 52404	Dyersville, IA 52040

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John L. Sandy, Fact Finder

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